

ELDER LAW AND DISABILITY RIGHTS SECTION

October 8, 2007

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30445 NORTHWESTERN HWY, STE 250
FARMINGTON HILLS 48334-3109

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GRAND BLANC 48439-2077

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JACKSON 49203-2707

TREASURER
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TROY 48068-6349

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Representative Mark Meadows
P.O. Box 30014
Lansing, MI 48909-7514

RE: HB 4819

Dear Representative Meadows:

Thank you for requesting comments and suggestions from the Elder Law Disability Rights Section of the State Bar of Michigan regarding House Bill No. 4819, or the "Senior medical alert" bill. We are pleased and support the concept of a statewide alert for adults who are elderly and vulnerable. Our feedback and additional suggestions for revision regarding House Bill No. 4819 are as stated below.

First, there should be no age requirement in order for this medical alert to be available. Currently, House Bill No. 4819 establishes an age requirement of the age of 65 or over in order for the alert to be issued. However, there many adults in Michigan who are incapable of returning to his or her residence without assistance due to a mental and/or physical impairments who would benefit from this alert, such as individuals who have been diagnosed with Alzheimer's disease under the age of 65, or adults with developmental disabilities. Thus, **we request that this alert should be available to all adults who are considered "vulnerable,"** as defined under the Michigan Penal Code, MCL 750.145m, which states:

(u) "Vulnerable adult" means 1 or more of the following:

(i) An individual age 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently.

(ii) An adult as defined in section 3(1)(b) of the adult foster care facility licensing act, MCL 400.703.

(iii) An adult as defined in section 11(b) of the social welfare act, MCL 400.11.

It is also our recommendation that law enforcement receive regular training and education regarding conditions, which makes individuals "vulnerable" and approaches for successful interactions with vulnerable adults.

Second, the bill currently states the alert is issued, in part, upon notification by a "person familiar with the missing endangered senior", which is defined as the senior's guardian, custodian, or guardian ad litem or individual who provides the missing endangered senior with home health aid services, possesses a health care power of attorney, or has proof that the missing endangered senior has a medical condition. This, however, excludes family members and friends who are in close contact with the individual who do not have any type of relationship as listed in the draft bill, and who may not necessarily have access to medical records to "prove" the individual has a medical condition.

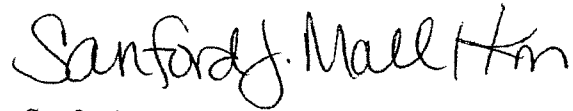
Individuals are often diagnosed with a disease such as Alzheimer's disease or end up having a surrogate decision-maker, such as a guardian, appointed *because* of such incidents where they have gotten lost or cannot find their way home. Thus, the "proof" may not be in existence at that time. Moreover, due to the strict privacy and confidentiality laws regarding medical records, we believe this "proof" would be difficult to obtain and/or require significant amounts of time to obtain. This requirement will likely minimize protection that could otherwise be provided without imposing the "proof" requirement. **We recommend, therefore, that anyone in close, regular contact with the individual should be able to make a report of the missing endangered person and do so without needing to provide proof of a medical condition.**

Lastly, we remain concerned that the Bill is silent with respect to the actions that will be taken once the missing individual is found. For that reason we recommend that provision be included directing law enforcement to take appropriate action without violating the rights of the vulnerable adult. First, police should use their judgment as they are trained to do when making safety and wellness checks or when they currently identify such an individual in the community even without a missing persons report being filed. Second, the reporting party may be a reliable source of recommendation for possible remedial action. Here again, police will have to assess the situation and use judgment once the individual is found (i.e., vulnerable woman claimed by abusive spouse to have mental illness - who tells police, "just bring her back home"). Third, without any other safe alternative, evaluation by a local hospital to help determine best course of action may be most appropriate. Fourth, a simple return home may just lead to another episode unless there are necessary supports in place to prevent re-occurrence. Fifth, the least desirable response would likely be transport to the police station.

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Thank you again for considering our comments and suggestions regarding House Bill No. 4819. If you have any additional questions or concerns, please feel free to contact us.

Very truly yours,

A handwritten signature in cursive script that reads "Sanford J. Mall". The signature is written in dark ink and is positioned above the printed name and title.

Sanford J. Mall
Chair, Elder Law & Disability Rights Section
State Bar of Michigan

SJM/hvs